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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/602,034	06/23/2000	Jeffry Jovan Philyaw	PHLY-25,337	9028

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DALLAS, TX 75374-1715

EXAMINER
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JACOBS, LASHONDA T

ART UNIT	PAPER NUMBER
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2157

NOTIFICATION DATE	DELIVERY MODE
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04/24/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@dalpat.com

<b>Office Action Summary</b>	<b>Application No.</b> 09/602,034	<b>Applicant(s)</b> PHILYAW, JEFFRY JOVAN	
	<b>Examiner</b> LASHONDA T. JACOBS	<b>Art Unit</b> 2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4,6,8-10,13-15,21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4,6,8-10,13-15,21 and 22 is/are rejected.
- 7) ☒ Claim(s) 7 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

This Office Action in response to Applicant's Appeal Brief filed on January 7, 2008. The Final Rejection has been withdrawn and application has been reopened for prosecution. Claims 1, 7, 10 and 13 have been amended. Applicant cancelled claims 3 and 12. Claims 1, 4-6, 8-10, 13-15, 17-18 and 21-22 are presented for further examination.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims **1** and **10** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claims **1** and **10**, recites the limitation of "activating the button on the cellular phone to activate the functional mode when the user is in physical proximity to the user PC, in response thereto, transferring to the user PC the unique code, which unique information has no routing code contained therein that would by itself uniquely identify the location of the remote location on the network, but which unique code has a predetermined association with the remote location", is indefinite. What does the applicant mean when user is in physical proximity to the user PC? Where is the PC? Is the PC located the remote location? It is also unclear as to how the unique code will identify the location of the remote location on the network. It appears as if

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there is a missing element that would be needed for the unique code to perform such identification.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims **1, 4-6, 8-10, 13-15, 17-18** and **21-22** rejected under 35 U.S.C. 103(a) as being unpatentable over Tendler et al (hereinafter, "Tendler", U.S. Pat. No. 6,519,463) in view of Borgstahl et al (hereinafter, "Borgstahl", U.S. Pat. No. 5,909,183).

As per claims **1** and **10**, Tendler discloses to a user PC, comprising the steps of: a method and apparatus for accessing information over a network from a remote location on the network for delivery

- providing a functional mode on a cellular telephone for web access over the network, the cellular telephone separate from the user PC and the functional mode having associated therewith a unique code (col. 4, lines 6-27);
- associating a button on the cellular phone with the functional mode (col. 5, lines 6-13);  
and
- wherein the step of providing the functional mode comprises storing the unique code in the cellular telephone, which the unique code is associated in the step of associating with the button, such that the unique code is output as a function of activation of the

button in the step of activating for delivery to the user PC in the step of controlling (col. 4, lines 6-27).

However, Tendler does not explicitly disclose:

- activating the button on the cellular phone to activate the functional mode when the user is in physical proximity to the user PC, in response thereto, transferring to the user PC the unique code, which unique information has no routing code contained therein that would by itself uniquely identify the location of the remote location on the network, but which unique code has a predetermined association with the remote location; and
- in response to activation of the functional mode, the user PC then utilizes the unique code received from the cellular telephone and the predetermined association thereof with the remote location to access information from the remote location on the network for delivery to user PC and display thereof on a display associated with the user PC; such that the user PC is controlled in accordance with the unique code to access the predetermined remote location.

Borgstahl discloses an interactive appliance remote controller system and method comprising:

- activating the button on the cellular phone to activate the functional mode when the user is in physical proximity to the user PC, in response thereto, transferring to the user PC the unique code, which unique information has no routing code contained therein that would by itself uniquely identify the location of the remote location on the network, but which unique code has a predetermined association with the remote location (col. 6, lines 20-30, col. 14, lines 10-33, col. 16, lines 44-67 and col.17, lines 9-45); and

- in response to activation of the functional mode, the user PC then utilizes the unique code received from the cellular telephone and the predetermined association thereof with the remote location to access information from the remote location on the network for delivery to user PC and display thereof on a display associated with the user PC; such that the user PC is controlled in accordance with the unique code to access the predetermined remote location (col. 6, lines 20-30, col. 14, lines 10-33, col. 16, lines 44-67 and col.17, lines 9-45).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tendler by providing unique commands within a device in order to allow the device to control the other device when it is determine that the two the devices are in proximity of each other thus establishing communication and information exchange between the two devices.

As per claims **5** and **14**, Tendler discloses:

- wherein the step of transmitting comprises transmitting via a wireless mode (col. 5, lines 44-54).

As per claims **6** and **15**, Tendler discloses:

- wherein the step of transmitting via the wireless mode includes transmitting via an optical link (col. 6, lines 41-54).

As per claim **8** and **17**, Tendler discloses:

- wherein the step of transmitting comprises an audio signal wherein the step of receiving comprises receiving and detecting the audio signal and extracting the information in the unique code therefrom (col. 6, lines 41-49).

As per claims **9** and **18**, Tendler disclose:

- wherein the network is a global communication network (col. 2, lines 63-66).

As per claims **21** and **22**, Tendler discloses:

- wherein the cellular telephone has a communication mode to allow voice communication where the cellular telephone communicates via a cellular telephone network and the step of transferring to the user PC the unique information occurs over a separate communication link between the user PC and the cellular telephone (col. 4, lines 6-27).

#### ***Allowable Subject Matter***

6. Claims **7** and **16** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

7. Applicant's arguments with respect to claims **1, 4-6, 8-10, 13-15, 17-18** and **21-22** have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LASHONDA T. JACOBS whose telephone number is (571)272-4004. The examiner can normally be reached on 8:30 A.M.-5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/LaShonda T Jacobs/  
Primary Examiner, Art Unit 2157

ltj  
April 14, 2008